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RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 96-138

Comments

[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated October 1994.]

1. Statutory Authority

Both s. ATP 98.01 (32) and s. 100.03 (1) (ym), Stats., as affected by 1995 Wisconsin Act 460, define “reviewed financial statement,” in part, as a financial statement sworn and notarized by the contractor. However, s. ATP 98.12 (1) (b) provides that when a year-end financial statement need only be a reviewed financial statement, it must contain a statement, signed and sworn by the contractor or an officer of the contractor. Under what authority may the department accept a financial statement signed by an officer of a contractor as a reviewed financial statement?

2. Form, Style and Placement in Administrative Code

In SECTION 33, the text should be preceded by “ATCP 98.22 (2) (f)”, not just “(f)”.

3. Conflict With or Duplication of Existing Rules

In s. ATP 98.01 (37), the rule provides that “vegetable” includes sweet corn but does not include grain as defined in s. ATP 99.01 (23). Section ATP 99.01 (23) provides, however, that grain includes “corn” but the difference between “sweet corn” and “field corn” is not discernible. Although the Note to s. ATP 98.01 (37) indicates that the Federal Grain Standards Act of 1916 excludes “sweet corn” from the definition of grain, it does not appear obvious by the terms of s. ATP 99.01 (23) that “sweet corn” is not a grain. Accordingly, a better definition of “grain” should be provided either in s. ATP 98.01 (37) or in s. ATP 99.01 (23). For

example, s. ATCP 98.01 (37) could simply refer to the definition contained in the Federal Grain Standards Act and the Note could briefly identify the items included or excluded by that act. If this is done, the act should be referred to by its U.S. Code cite.

4. Adequacy of References to Related Statutes, Rules and Forms

The effective date clause should contain a reference to s. 227.22 (2) (intro.), Stats. [See s. 1.02 (4) (a), Manual.]